

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE

LEWIS COSBY, KENNETH R. MARTIN, )  
as beneficiary of the )  
Kenneth Ray Martin Roth IRA, and )  
MARTIN WEAKLEY on behalf of )  
themselves and all others similarly situated, )  
 )  
Plaintiffs, )  
 )  
v. ) No.: 3:16-CV-121-TAV-DCP  
 )  
KPMG, LLP, )  
 )  
Defendant. )

**ORDER**

This matter is before the Court on defendant's Motion to Stay [Doc. 187] this action pending resolution of their motion to dismiss [Doc. 180]. On March 19, 2019, the Court issued an order ("Stay Order") staying the case pending resolution of plaintiffs' motion to certify the class, with an exception to file responses and replies associated with that motion [Doc. 109]. On June 21, 2019, Magistrate Judge Debra Poplin partially lifted the stay for the sole purpose of completing briefing and resolving a motion to substitute parties [Doc. 145]. The rest of the case remained stayed. Upon an order from the magistrate judge granting the motion to substitute parties [Doc. 167], plaintiffs filed their third amended complaint [Doc. 174]. Defendant responded and filed an answer [Doc. 182] and a motion to dismiss for failure to state a claim [Doc. 180]. On the basis of this motion to dismiss, defendant claims the action must be stayed pending resolution of that motion pursuant to the Private Securities Litigation Reform Act ("PSLRA") [Doc. 188 p. 4]. They claim the

motion is not barred by the Stay Order because, under Federal Rule of Civil Procedure 15(a)(3), the motion must have been filed within 14 days of the amended complaint.

While the Court understands that it was procedurally necessary for defendant to file the instant motion, the case is still under the Stay Order pending class certification and decision on Judge Poplin's Report and Recommendation on the same. Because this case is already stayed pending a ruling on class certification, the present Motion to Stay under the PSLRA is somewhat duplicative and **DENIED as moot**.

So that the court may have all information on the remaining issues, the parties are **DIRECTED** to continue briefing defendant's motion to dismiss [Doc. 180]. Plaintiff shall file a response by **September 25, 2020**, and defendant shall have until **October 2, 2020** to file a reply, if necessary.

IT IS SO ORDERED.

s/ Thomas A. Varlan  
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UNITED STATES DISTRICT JUDGE